THE MILITIA AS ORGANIZED UNDER THE CONSTITUTION AND ITS VALUE TO THE NATION AS A MILITARY ASSET

PREPARED BY THE WAR COLLEGE DIVISION, GENERAL STAFF CORPS AS A SUPPLEMENT TO THE STATEMENT OF A PROPER MILITARY POLICY FOR THE UNITED STATES

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1. UNDER THE CONSTITUTION THERE ARE TWO WAYS OF RAISING TROOPS.

(*a*) Directly under the power of Congress "to raise and support armies." (Art. 1, sec. 8, par. 11.)

(*b*) Indirectly under (art. 1, sec. 8, par. 14) the power "to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions."

(A. W. C. Serial 25, Part I, p. 45) But for the valuelessness of the militia (and other short-term troops), the provision of the Constitution which authorizes the Federal Government "to raise and support armies" would probably never have been adopted, because of the traditional fear of a standing army. As it was, this provision was bitterly opposed and barely received enough votes to be carried.

The omission of the clause would have resulted in a dependence upon militia alone.

2. THE FIRST IMPORTANT MILITIA ACT WAS THAT OF 1792.

This act provided for compulsory enlistment and the performance of military duty by every able-bodied male between 18 and 45, and required their enrollment as State militia; hence, for the United States to raise Regulars or Volunteers under this act would be an encroachment upon a body already subject to the State as militia.

As this act carried no appropriation for arms, equipment, enrollment, etc., and as there was no penalty for failure to carry out its provisions, and as there was no way to coerce the governors of States, it resulted that the States gradually assumed the power of legislating for the militia—the war power was practically turned over to the governors.

3. MILITIA LAWS OF 1808 (1661) AND 1820.

In 1808 Congress appropriated an annual sum for arms and equipment; in 1820 it passed an act requiring that field exercises and discipline in the militia should be as observed in the Regular Army.

4. FAILURE OF THE SYSTEM.

The failure of the system in use during the Revolution and subsequently was largely due to short enlistments, method of securing officers, and lack of control by the Federal Government.

The system was a failure during the Revolution and in every succeeding war. This was particularly true of militia (and it was true for other classes of troops where the Federal Government failed to assert its power or relinquished it).

5. WORTHLESSNESS OF THE MILITIA.

To show its lack of value as a military asset the following statements are quoted from the writings of George Washington:

(A. W. C. Serial 25, Part I, p. 42) Certain I am that it would be cheaper to keep 50,000 or 100,000 in constant pay than to depend upon one half the number and supply the other half occasionally by militia.

The time the latter are in pay before and after they are in camp, assembling and marching, the waste of ammunition, the consumption of stores which * * * they must be furnished with or sent home, added to the other incidental expenses consequent upon their coming and conduct in camp, surpass all idea and destroy every kind of regularity and economy which you could establish among fixed and settled troops and will in my opinion prove, if the scheme is adhered to, the ruin of our cause * * *. For if I was called upon to declare upon oath whether the militia have been more serviceable or hurtful, I should subscribe to the latter * * *.

(A. W. C. Serial 25, Part I, p. 43) That an annual army raised on the spur of the occasion, besides being unqualified for the end designed, is * * * ten times more expensive * * *.

(A. W. C. Serial 25, Part I, p. 44) The only things that counted for efficiency were length of service and military experience of the officers.

The above quotations are just as true to-day as they were nearly 140 years ago.

6. VOLUNTEER ACT OF 1898 AND LATER MILITIA ACTS.

The volunteer act of 1898 was based on the Constitution. It provided for a force that could be used at home or abroad and for general military purposes, and did not attempt to use a force that the Constitution restricted to three specific purposes. Legislation since then has gone backward and makes the attempt to use what the experience of 140 years has shown to be not a dependable force on account of constitutional limitations. The latest militia laws are those of January 21, 1903, May 27, 1908, April 21, 1910, and April 25, 1914 (volunteer law).

These laws do not correct known defects in the militia, even those that, the Constitution not preventing, might be corrected.

"The laws governing the transition from the service of the State to the service of the United States are more indefinite and more liable to lead to confusion and embarrassment than they ever were before." (3702 Congressional Record, 1911.)

7. THE MILITIA AS AN ASSET IN CARRYING OUT PLANS FOR THE NATIONAL DEFENSE.

To be of real value as an asset in preparing war plans it should be possible to answer the question, What percentage of the present personnel of the Organized Militia, or as it would be at the time the President issues his call, will be available?

This question can not be answered even approximately.

The last report of the Chief of Staff (1914) gave the strength of the Organized Militia (mobile) as 113,929, but this does not represent the number available in preparing war plans.

In the first place there is a dual responsibility, the governor and the President, and there may be conflict.

The President would issue his call through the governors of States. (Sec. 4, act of 1908.) He can not issue the call directly to the Organized Militia officers as was possible before (under the act of 1903).

If certain governors were not in sympathy with the war. (In 1812 the governors of Massachusetts and Connecticut and later the governors of Vermont, Virginia, North Carolina, Kentucky, Tennessee, Arkansas, and Missouri refused to call forth the militia in response to the President's call.)

If their constituents fear their own section will be attacked;

If great political pressure is exerted to prevent militia of certain States being sent to the place designated by the President;

If certain governors should disband the Organized Militia in their States (West Virginia, South Carolina, Nevada, and Kansas governors have done this); then the President's action would be in part nullified, and from this cause alone the resultant force might easily be considerably less than the existing Organized Militia.

8. FAILURE OR REFUSAL OF TROOPS TO SERVE.

(A. W. C. Serial 25, Part IV, p. 37) "The response to the call for volunteers under the act of April 22, 1898, at once illustrated the worthlessness of the existing militia as an auxiliary to the Regular Army. * * *"

"Of the militia borne on the company rolls, many refused to volunteer upon reasonable grounds, 25 per cent were rejected prior to muster, and 25 per cent were rejected on physical examination after muster."

The Organized Militia is better trained, officered, equipped, and disciplined than in 1898, but men are about the same now as always, and if they are not inclined to serve in war they will find a way to avoid service.

Section 7, act of 1908, provides:

> That any officer or enlisted man of the Organized Militia who shall refuse or neglect to present himself for such muster, upon being called forth as herein prescribed, shall be subject to trial by court-martial and shall be punished as such court-martial may direct.

Under this provision it is not believed to be practicable to try and punish such offenders. It might be used as a threat, but it is not believed that it will deter many who do not wish to serve.

9. LACK OF PHYSICAL FITNESS.

Section 7 of act of 1908 further provides:

> And without further medical examination previous to such muster, except for those States and Territories which have not adopted the standard of medical examination prescribed for the Regular Army.

Because the standard for medical examination prescribed for the Regular Army has been adopted by the States it does not follow that they conform. Those who have inspected the Organized Militia know this, and men not qualified physically would shortly have to be discharged and might later become unworthy pension claimants. (457 A. R. (b).)

The Report of the Chief of Militia Division, page 33 (1914), under the column headed "Not apparently conforming, etc., * * *" a total of 3,218 is shown; the last column of table on page 33 shows 720 discharged for physical unfitness.

If the necessarily superficial examination showed 3,218 unfit, it is believed a searching examination would reveal several times such number unfit.

Page 206 of the report above mentioned shows that the Organized Militia is 16,000 short of the (old) minimum, and further states:

> In no State is the prescribed peace strength of all organizations of the Organized Militia maintained and that in many instances the deficiency has reached such a figure as to leave the corresponding organizations such in name only—organizations of no value as a military asset to the Federal Government.

It is believed that many organization commanders are very lax as to physical qualifications in order to secure the prescribed minimum.

If all of the organizations of the Organized Militia could be kept up to the prescribed minimum with men qualified physically, the situation would not be so bad, but it seems to have been demonstrated that, due to (*a*) labor opposition, (*b*) objections of employers to

absence of employees, (*c*) lack of inclination, interest, incentive, etc., it can not be done. So that for reasons enumerated above it is doubtful if as many as 75,000 of the existing would actually be obtained.

10. TIME FOR CONCENTRATING.

Due to variations in distance from the point of concentration, the varying promptness of the various governors in acting, the varying degrees of readiness to move, of the organizations themselves, there will result an assembling of a percentage (unknown) of the Organized Militia by driblets over a considerable period of time (not determinable).

11. CHARACTER OF THE FORCE ASSEMBLED.

Section 18 of the act of 1903 requires, for participating in certain funds distributed by the Federal Government, participation in five days' camp or march and 24 periods of instruction.

Assuming that a man attended five days' camp and 24 drills of 1½ hours each, he would have received about 60 hours instruction in a year.

The last report of the Chief of Staff (p. 7) states that "over 30 per cent failed to attend 24 drills" and that "it is believed to be a safe conclusion that not a single unit at its maximum strength marched a distance of 10 miles fully equipped and armed."

The personnel of the Organized Militia is constantly changing. Table, page 33, Report of Chief of Militia Division (1914), shows over 35 per cent of the enlisted men served less than one year; over 74 per cent less than three years.

In three years the maximum amount of instruction received by any man would probably never exceed 180 hours—this would be an exceptional case. The instruction would vary during a three years' period from 180 hours to 0, with average instruction of, say, 90 hours.

It is to be observed that the man with approximately 180 hours instruction has almost reached the end of his enlistment and no sooner will he reach the concentration camp than the question of his discharge must be considered.

The lowest estimate of any competent authority as to the time necessary to train a man to be an efficient soldier, with intensive training, under experienced officers and noncommissioned officers is 1,500 hours. It is apparent how far the average enlisted man in the Organized Militia with under 90 hours (15 days) instruction, and even the man with the maximum training, falls short.

As a matter of fact the entire personnel might have been replaced by raw material and the average instruction reduced to zero, with nothing as an asset left but the organization, if that be an asset.

There may have been enough raw material added to bring existing organizations up to "war strength," but in this case the average instruction would thereby be reduced to about 40 hours or, say, the equivalent of seven days.

12. TIME THIS FORCE MAY BE HELD FOR SERVICE.

Section 4 of the act of 1908 (amending sec. 5 of 1903) states—

> He may specify in his call the period for which such service is required * * *;

And—

> no commissioned officer, etc., * * * shall be held to service beyond the term of his existing commission or enlistment * * *.

Thus it is apparent that the best trained men would soon begin to drop out.

13. HOW THIS FORCE MAY BE USED.

The Constitution and laws based thereon provide that it may be used "to execute the laws of the Union, suppress insurrections, and repel invasions."

Section 4 of act of 1908 (amending sec. 5, 1903) provides: "shall continue to serve * * * either within or without the territory of the United States * * *."

But the Attorney General held, February 17, 1912—

> I think that the constitutional provision here considered not only affords no warrant for the use of the militia by the General Government, except to suppress insurrection, repel invasions, or execute the laws of the Union, but, by its careful enumeration of the three occasions or purposes for which the militia may be used, it forbids such use for any other purpose.

14. WASTEFULNESS OF SYSTEM.

The Secretary of War states on page 7 in his "Outline of Proposed Military Palicy," November 1, 1915—

> Federal Government appropriates $6,614,532.13 annually for or on behalf of the National Guard.
>
> The States individually appropriate for their respective guards an aggregate of $6,244,214.98 annually—

or a total of $12,858,747.11.

This sum, at a cost per man of $914, would support 14,068 trained men constantly in service.

Or figuring the entire cost of supporting a reserve at one-fifth the cost of troops with the colors, the above sum would support 70,340 men, trained and ready for immediate service.

There can be no doubt that this sum might better be used to support such trained reserve as against a possible 75,000 Organized

Militia with an average of 90 hours' training—for limited uses only—with inexperienced officers available as first-line troops at some distant date, probably six to nine months.

The Canadian militia, with, possibly, training equal to that of our average Organized Militia, was not considered fit for duty on the Continent until more than six months after their arrival in England. Many (10 per cent) of the Canadian Militia had to be returned as unfit for military service.

15. AS DETERRING THE RAISING OF VOLUNTEERS.

Section 4 of act of 1908, amending section 5 of act of 1903, provides:

> The Organized Militia *shall* be called into service of the United States in advance of any volunteer force which it may be determined to raise.

Section 3 of the act of 1914 provides that when three-fourths of the minimum strength of each organization volunteers * * * it may be received into the volunteer forces in advance of other organizations, etc. * * *

It is believed that these sections will have the effect of holding up volunteering until it is known what the Organized Militia is going to do and how many are coming into the service as militia or as volunteers.

16. NUMBER OF ORGANIZED MILITIA AND AMOUNT OF TRAINING OF THOSE SECURED BY THE CALL.

When the Organized Militia is concentrated in response to the President's call, we will have of the existing Organized Militia personnel, as militia called into the service of the United States, a force certainly not exceeding 75,000, with average instruction not exceeding 90 hours, with officers appointed by the governors, trained by the States, with constitutional limitations as to the purposes for which it may be used. As to those organizations which decide to volunteer, the same defects would exist except the last.

17. THE ORGANIZATIONS OF ORGANIZED MILITIA AND TRAINING OF PERSONNEL AS AN ASSET.

Reorganization of the Land Forces (p. 58) states:

> * * * is a force actually in being and one composed largely of officers and men who have volunteered for military training because they desire to serve as soldiers in the event of war. The Organized Militia, in short, constitutes an existing organization.

It has been stated further:

> Aside from the Regular Army, it is the only organized military force in the United States. * * * Except the military department in certain schools, it has been the only source of instruction in military matters for the citizen

who does not devote his whole time to the military profession. It may be fully admitted that the training received has not been an adequate return for the money expended, but that training has not been entirely without value. * * *

Many of the officers of the Organized Militia have been enthusiastic students of military subjects and have acquired a theoretical and practical knowledge which would be of value to the Government in time of war. * * *

It has been alleged also that—

even skeleton organizations are of value to build on in an emergency.

18. HOW PRESENT ORGANIZED MILITIA HAS IMPROVED.

The militia laws now in force are not an improvement, generally, over the earliest, and do not improve the system that has always obtained.

More attention has been given to the Organized Militia by the Federal Government. Money has been appropriated in larger sums for various purposes. Officers and enlisted men of the Regular Army have been designated to assist. Improvement has been made in consequence, but the system itself is bad, and a really dependable force can not be produced without the correction of well-known defects.

There should be complete Federal control as to appointment of officers, amount of training, as to when and where it may be used (constitutional amendment necessary to make the militia such a force).

Enlistments should be long or for the war.

Should be a reserve, supply depots, etc.

19. CONCLUSIONS.

What is required is to secure quickly at the outbreak of war a force of trained men. This can only be done by making the necessary preparations before war comes. The Organized Militia will not produce such a force. It can be provided by a system based on a combination of volunteering and conscription with Federal control.

As "continued reliance upon the Organized Militia has actually stood in the way of our getting anything better," it would seem the wisest policy to place no dependence upon such a questionable asset as the Organized Militia and to replace it at the earliest practicable moment by a proper Federal force.

It is not believed that the military instruction possessed by officers and enlisted men of the Organized Militia should be wasted, but their training and military knowledge should be utilized to the utmost in the preparation of the Federal force above mentioned.

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